

11 DEC 2003

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In re Application of :  
Hodge et al. :  
Application No. 10/070,526 : DECISION UNDER  
PCT No.: PCT/AU00/01055 :  
Int. Filing Date: 06 September 2000 : 37 CFR 1.42 AND  
Priority Date: 06 September 1999 :  
Atty. Docket No.: HO-P02403US0 : 37 CFR 1.47  
For: Food Product And Process :  
For Manufacturing The Same :  
:

This is in response to the "Statement Of Facts In Support Of Filing On Behalf Of Nonsigning Inventor (37 C.F.R. § 1.47) and accompanying papers filed on 27 October 2003.

### DISCUSSION

#### *Submission Under 37 CFR 1.42*

In a decision mailed on 05 September 2003, the submission under 37 CFR 1.42 filed on 19 November 2002 was dismissed without prejudice because the declaration was defective. Specifically, it had been altered by modifying Neil Stoodley's postal code, and it did not state Keith Stoodley's relationship to deceased inventor Neil Stoodley, and did not state Keith Stoodley's citizenship, residence and mailing address (nor were his residence, mailing address and relationship stated on the accompanying application data sheet). Petitioner has now filed a new declaration and application data sheet which cure these defects. Accordingly, it would now be appropriate to grant relief under 37 CFR 1.42.

#### *Petition Under 37 CFR 1.47*

In a decision mailed on 05 September 2003, the petition under 37 CFR 1.47 filed on 19 November 2002 was dismissed without prejudice because it was not clear that non-signing joint inventor Stella Collins had refused to execute a declaration after being presented with the declaration and a complete copy of the application, and because the declaration was not acceptable in that the request for relief under 37 CFR 1.42 had not been granted. The instant renewed petition is accompanied by documentary evidence including a letter from Angus Nicol, an agent of Ms. Collins, dated 28 October 2002 which states in part that "she has advised me she is unwilling to complete..." the "documents," but that "Ms. Collins would be willing to execute the documents subject to receipt of proper compensation for her time and subject to the recommendation of an independent legal advisor appointed by her." On the basis of the totality of the evidence now of record, including Mr. Nicol's these statements, it

would now be appropriate to grant relief under 37 CFR 1.47(a).

**DECISION**

The papers under 37 CFR 1.42 are **ACCEPTED**.

The petition under 37 CFR 1.47 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C 371(c)(1), (2) and (4) is **27 October 2003**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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Stella Collins  
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In re Application of  
Hodge et al.  
Application No. 10/070,526  
PCT No.: PCT/AU00/01055  
Int. Filing Date: 06 September 2000  
Priority Date: 06 September 1999  
For: Food Product And Process For  
Manufacturing The Same

Dear Ms. Collins:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6721. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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**OFFICIAL GAZETTE NOTICE**

**37 CFR 1.47 Notice by Publication**

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Stella Collins) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/AU00/01055 and was filed on September 6, 2000 in the names of Jason Hodge, Louise Richardson, Neil Stoodley, Catriona Giffard and Stella Collins for the invention entitled FOOD PRODUCT AND PROCESS FOR MANUFACTURING SAME. The national stage application number is 10/070,526 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of October 27, 2003.